

RECORDATION NO. 18468 -X
FILED

DEC 21 '07 -2 30 PM

SURFACE TRANSPORTATION BOARD

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OF COUNSEL
URBAN A. LESTER

December 21, 2007

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

Re: Union Pacific Railroad Company

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of an Assignment and Assumption Agreement, dated as of December 21, 2007, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the documents previously filed with the Board under Recordation Number 18468.

The names and addresses of the parties to the enclosed document are:

Seller Assignor: Emerson Partnership, LLP
c/o Stills Unlimited
Queensgate House
P O Box 1093 GT
South Church Street
Grand Cayman
Cayman Islands

Buyer/Assignee: Babcock & Brown Rail Funding LLC
885 Second Avenue, 49th Floor
New York, NY 10017

Mr. Vernon A. Williams
December 21, 2007
Page 2

Head Lessee: North America Rail Leasing #3 LLC
(d/b/a Babcock & Brown Rail Leasing)
885 Second Avenue, 49th Floor
New York, NY 10017

A description of the railroad equipment covered by the enclosed document is:

170 hopper cars within the series CTRN 600001 - CTRN 600204 as more particularly set forth in the equipment schedule attached to the document.

A short summary of the document to appear in the index is:

Assignment and Assumption Agreement.

Also enclosed is a check in the amount of \$35.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,



Robert W. Alvord

RWA/sem
Enclosures

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ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement dated as of December 21, 2007 (this "Agreement"), is between The Emerson Partnership, LLP, a Delaware limited liability partnership (the "Seller"), North America Rail Leasing #3 LLC (the "Head Lessee") and Babcock & Brown Rail Funding LLC, a Delaware limited liability company (the "Buyer"). Capitalized terms used herein without definition shall have the meanings ascribed thereto in the Purchase Agreement (defined below), which also contains rules of usage that apply to terms defined therein and herein.

RECITALS:

A. The Seller is the owner of the railcars described on Exhibit A hereto (the "Equipment").

B. Concurrently herewith, the Seller and the Buyer have executed and delivered the Purchase Agreement [Emerson/BBRF] dated as of the date hereof (as amended, modified or supplemented, the "Purchase Agreement") in respect of the Equipment.

C. The Purchase Agreement contemplates the execution and delivery of this Agreement by the Seller, the Head Lessee and the Buyer on the date hereof.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows.

1. Assignment. Effective as to each item of Equipment from and after the date hereof, pursuant to Section 11 of the Head Lease the Seller directs the Head Lessee to assign, transfer and convey to the Buyer, and each of the Seller and the Head Lessee, respectively, hereby assigns, transfers and conveys to the Buyer all of the Seller's and the Head Lessee's respective rights, title and interest, except as reserved under Section 2.1 of the Purchase Agreement, in and to such item of Equipment and assigns to the Buyer all of the Seller's and the Head Lessee's respective rights and obligations, except to the extent constituting Existing Obligations, under each of the agreements listed on Exhibit A hereto as they relate to the applicable Equipment and all of the other agreements and documents listed in Schedule 1 to the Purchase Agreement (collectively, the "Assigned Operative Agreements").

Notwithstanding the foregoing, each of the Seller, and the Head Lessee and the Buyer shall continue to be entitled to the benefit of any applicable rights to indemnification for tax and other matters which arose or may arise from or be related to any event or circumstance occurring or in existence prior to the date hereof, as specified in the Purchase Agreement.

2. Acceptance of Assignment; Effect of Assignment. The Buyer accepts the assignment contained in Section 1 and agrees to be bound to the same extent as the Seller and the

Head Lessee by all the terms of the Assigned Operative Agreements. Effective on and after the date hereof, after giving effect to the transaction described herein, the Buyer shall be deemed to stand in the place of the Seller for all purposes under the applicable Assigned Operative Agreements and each reference in the Assigned Operative Agreements to the Seller shall be deemed to mean the Buyer.

3. Amendments. No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

4. Notices. All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by Section 9.5 of the Purchase Agreement.

5. Headings. The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

6. Counterparts. This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

7. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without giving effect to the conflict of law rules thereof, other than Section 5-1401 of the New York General Obligations Law.

8. Recordation. The Buyer and the Seller agree to record this Agreement with the Surface Transportation Board and with the Registrar General of Canada, if applicable, to evidence the assignment by the Seller to the Buyer of the Seller's rights under the Lease, if and only if the Lease has been recorded with the Surface Transportation Board and/or the Registrar General of Canada, as the case may be.

9. Further Assurances. Each of the parties hereto covenants and agrees that, at any time and from time to time after the date hereof, at the request and expense of the requesting party hereto, it will promptly and duly execute and deliver, or cause to be executed and delivered, to the requesting party all such further instruments and take all such further action as may be reasonably requested by such party to more effectively sell, transfer, assign, and convey each item of Equipment.

10. Binding Agreement. This Agreement shall be binding upon the Seller and the Buyer, their respective successors and permitted assigns, for the use and purposes set forth and referred to herein, effective as of the date hereof.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Assignment and Assumption Agreement has been duly executed by the parties hereto as of the date first above written.

THE EMERSON PARTNERSHIP, LLP, as Seller

By: Lloyds TSB Equipment Leasing (No. 5)
Limited, its General Partner

By: Richard Barker
Name: RICHARD BARKER
Title: SOLICITOR

NORTH AMERICA RAIL LEASING #3 LLC, as
Head Lessee

By: _____
Name:
Title:

BABCOCK & BROWN RAIL FUNDING LLC, as
Buyer

By: _____
Name:
Title:

IN WITNESS WHEREOF, this Assignment and Assumption Agreement has been duly executed by the parties hereto as of the date first above written.

THE EMERSON PARTNERSHIP, LLP, as Seller

By: Lloyds TSB Equipment Leasing (No. 5)
Limited, its General Partner

By: _____
Name:
Title:

NORTH AMERICA RAIL LEASING #3 LLC, as
Head Lessee

By: 
Name: Larry Littlefield
Title: Vice President

BABCOCK & BROWN RAIL FUNDING LLC, as
Buyer

By: 
Name: Larry Littlefield
Title: Vice President

State of New York)
County of New York)

On this, the 11th day of December, 2007, before me, a Notary Public in and for said County and State, personally appeared Richard Baker, the attorney of The Emerson Partnership, LLP, who acknowledged himself/~~her~~self to be a duly authorized person of The Emerson Partnership, LLP, and that, as such duly authorized person, being authorized to do so, he/she executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name:

Nancy J. Neubauer
Notary Public

My Commission Expires:

04/10/2011

Residing in:

New York, NY

NANCY J. NEUBAUER
Notary Public, State of New York
No. 01NE5041802
Qualified in New York County
Commission Expires April 10, 2011

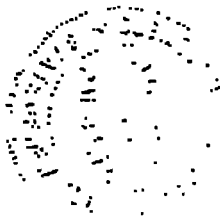
State of New York)
County of New York)

On this, the 11th day of December, 2007, before me, a Notary Public in and for said County and State, personally appeared Larry Littlefield the Vice President of Babcock & Brown Rail Funding LLC, who acknowledged ~~himself~~ herself to be a duly authorized officer of Babcock & Brown Rail Funding LLC, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: Clementina Capasso
Notary Public

CLEMENTINA CAPASSO
My Commission Expires: NOTARY PUBLIC, STATE OF NEW YORK
No. 01CA6120806
Residing in: QUALIFIED IN NEW YORK COUNTY
MY COMMISSION EXPIRES DEC. 27, 2008



State of New York)
County of New York)

On this, the 11th day of December, 2007, before me, a Notary Public in and for said County and State, personally appeared Larry Littlefield, the Vice President of North America Rail Leasing #3 LLC, who acknowledged himself/herself to be a duly authorized officer of North America Rail Leasing #3 LLC, and that, as such officer, being authorized to do so, ~~he~~^{she} executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: Clementina Capasso
Notary Public

My Commission Expires: **CLEMENTINA CAPASSO**
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01CA6120808
QUALIFIED IN NEW YORK COUNTY
Residing in: **MY COMMISSION EXPIRES DEC. 27, 2008**



Exhibit A
(to Assignment
and Assumption Agreement)

EQUIPMENT AND LEASES

Lease #	Lessee	# of Units	Year Built/ Manufacturer	Description	Reporting Marks	Casualty Marks
1	Union Pacific Railroad Company	88	1991	3,870 cubic foot, 100 ton aluminum rapid discharge coal hopper railcars, manufactured by Bethlehem Steel.	CTRN 400001-400115, inclusive	CTRN 400002, 400007, 400008, 400013, 400014, 400023, 400031, 400032, 400034, 400037, 400044, 400049, 400055, 400058, 400059, 400064, 400066, 400069, 400074, 400083, 400086, 400094, 400098, 400102, 400103, 400106, 400114

Lease #	Lessee	# of Units	Year Built/ Manufacturer	Description	Reporting Marks	Casualty Marks
2	Tate & Lyle	569	1990	17,574 gallon, insulated and exterior coiled tank cars, manufactured by Trinity Industries.	STX 1500-1525, inclusive; 1527-1536, inclusive; 1538, 1540-1604, inclusive; 1606-1652, inclusive; 1654-1661, inclusive; 1663-1696, inclusive; 1698-1701, inclusive; 1703-1736, inclusive; 1738-1778, inclusive; 1780-1868, inclusive; 1870-1968, inclusive; and 1970-2082, inclusive.	STX 1774, 1878
3	Union Pacific Railroad Company	94	1993	4,000 cubic foot, 100 ton aluminum quadruple coal hopper cars, manufactured by Johnstown America.	CTN 600001, 600003 – 600014, inclusive; 600016-600021, inclusive; 600027, 600029, 600034, 600035, 600071 – 600124, inclusive; 600126 – 600139, inclusive; 600141, 600144 – 600156, inclusive and 600158 – 600167, inclusive	CTN 600001, 600102, 600013, 600016, 600034, 600035, 600071, 600072, 600099, 600103, 600115, 600117, 600119, 600124, 600132, 600146, 600153, 600154, 600158, 600159, 600163

Lease #	Lessee	# of Units	Year Built/ Manufacturer	Description	Reporting Marks	Casualty Marks
4	Union Pacific Railroad Company	76	1993	4,000 cubic foot, 100 ton aluminum quadruple coal hopper cars, manufactured by Johnstown America.	CTRN 600002, 600015, 600022 – 600026, inclusive; 600028, 600030 – 600033, inclusive; 600036 – 600070, inclusive; 600125, 600140, 600142, 600143, 600157, 600168 – 600204, inclusive	CTRN 600002, 600015, 600031, 600043, 600045, 600060, 600065, 600168, 600178, 600185, 600190, 600193, 600204
5	Chicago Freight Car Leasing Co.	143	1989	3,000 cubic foot cement covered hoppers railcars. 49 cars manufactured by Trinity Industries, 97 cars manufactured by Thrall Car.	CRDX 9200 – 9295, inclusive; 9376-9379, inclusive; 9300 – 9319, inclusive; 9380 – 9399, inclusive; 9370 – 9375, inclusive; 9296 – 9299, inclusive	CRDX 9201, 9206, 9246, 9247, 9259, 9282, 9399

1. Railcar Lease Agreement dated as of April 28, 1993, entered into by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and Union Pacific Railroad Company (formerly known as Southern Pacific Transportation Company).

Rider A to Railcar Lease Agreement dated as of April 28, 1993, entered into by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and Union Pacific Railroad Company (formerly known as Southern Pacific Transportation Company).

Supplement and Acceptance Certificate dated April 29, 1993, between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and Union Pacific Railroad Company (formerly known as Southern Pacific Transportation Company).

Tax Indemnity Agreement dated as of April 28, 1993, between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and Union Pacific Railroad Company (formerly known as Southern Pacific Transportation Company).

2. Master Net Railcar Lease is dated as of December 2, 2005, between Babcock & Brown Rail Leasing Co. and Tate & Lyle.

Schedule No. 01 dated as of December 2, 2005 to that certain Master Net Railcar Lease dated as of December 2, 2005, between North American Rail Leasing # 3 LLC (d/b/a Babcock & Brown Rail Leasing).

3. Amended and Restated Equipment Lease Agreement dated as of December 22, 1993, entered into by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and Union Pacific Railroad Company (formerly known as Southern Pacific Transportation Company).

Lease Supplement No. 2 to Amended and Restated Equipment Lease Agreement dated as of December 22, 1993, entered into by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and Union Pacific Railroad Company (formerly known as Southern Pacific Transportation Company).

4. Amended and Restated Equipment Lease Agreement dated as of December 22, 1993, entered into by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and Union Pacific Railroad Company (formerly known as Southern Pacific Transportation Company).

Lease Supplement No. 1 to Amended and Restated Equipment Lease Agreement dated as of December 22, 1993, entered into by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and Union Pacific Railroad Company (formerly known as Southern Pacific Transportation Company).

5. Master Lease Agreement dated as of February 26, 1991, entered into by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and Chicago Freight Car Leasing Co.

Acceptance Supplement No. 00101 to Master Lease Agreement dated as of February 26, 1991, entered into by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and Chicago Freight Car Leasing Co.

First Amendment to Master Lease Agreement dated as of December 29, 1993, between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and Chicago Freight Car Leasing Co.

Assignment and Security Agreement dated as of February 26, 1991, between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and Chicago Freight Car Leasing Co.

Letter Agreement dated April 15, 1996, between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and Chicago Freight Car Leasing Co.

CERTIFICATION

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: 12/21/07



Robert W. Alvord